

Questionable Constitutional Authority Statement of the Week

March 1, 2012



- **Bill:** H.R. 808, the Department of Peace Act of 2011.
- **Introduced by:** Rep. Dennis Kucinich (D-OH)
- **Constitutional Authority Statement:** "Congress has the power to enact this legislation pursuant to the following: The preamble to the Constitution has the following injunction: ``. . . to promote domestic tranquility . . ." This is the purpose of the bill."

Why this is an inadequate explanation: The preamble to the Constitution does not bestow any specific legal authority upon the federal government. Instead it explains generally why the Constitution has been written and ratified, and makes a statement about the general purpose of the U.S. government. It is therefore inadvisable to cite the preamble as the source of a bill's constitutionality, as the preamble itself does not grant any congressional authority.

How to fix this statement: A better Constitutional Authority Statement would need to explain from exactly where in the Constitution the Congress derives the authority to pass this particular legislation. It could do so by citing a clause of the Constitution which specifically grants Congress a relevant power. The preamble could then be used as a secondary point to compliment this cited clause. Preferably the statement would also include a sentence of explanation for each clause of the Constitution mentioned.

To see previous "Questionable Constitutional Authority Statements," as well as advice for drafting your office's Constitutional Authority Statements, go [here](#).

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